

**CITY OF TIGARD  
PLANNING COMMISSION  
Meeting Minutes  
December 15, 2014**

**CALL TO ORDER**

President Rogers called the meeting to order at 7:00 p.m. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

**ROLL CALL**

**Present:** President Rogers  
Vice President Fitzgerald  
Commissioner Doherty  
Commissioner Feeney  
Alt. Commissioner Goodhouse  
Alt. Commissioner Mooney  
Commissioner Muldoon  
Commissioner Ouellette  
Commissioner Schmidt

**Absent:** None

**Staff Present:** Tom McGuire, Assistant Community Development Director; Gary Pagenstecher, Associate Planner; John Floyd, Associate Planner; Lloyd Purdy, Economic Dev. Manager; Greg Berry, Development Engineer; Doreen Laughlin, Executive Assistant

**COMMUNICATIONS** - None

**CONSIDER MINUTES**

November 17 Meeting Minutes: President Rogers asked if there were any additions, deletions, or corrections to the November 17 minutes; there being none, Rogers declared the minutes approved as submitted.

**UPDATE ON FIELDS INDUSTRIAL PROPERTY**

Lloyd Purdy introduced himself as the City of Tigard's Economic Development Manager. He gave an update on the public/private partnership for mixed use development on the Fields property - a project that he'd talked to the commission about ten months ago relating to the Field's Industrial site. This site is a portion of the Field's property along Wall Street in what's called the Hunziker Industrial Core. He went over a memo with the commission regarding that site ([\*Exhibit A\*](#)).

**OPEN PUBLIC HEARING**

President Rogers opened the public hearing.

**A + O APARTMENTS PLANNED DEVELOPMENT; COMPREHENSIVE PLAN AMENDMENT (CPA)2014-00002; Planned Development Review; (PDR)2014-00003; Site Development Review; (SDR)2014-00004; Sensitive Lands Review (SLR)2014-00002**

**Comprehensive Plan Amendment** approval is requested to remove, or allow conflicting uses on, 0.42 acres of significant wetlands, designated on the Comprehensive Plan's "Wetlands and Stream Corridor Map" as Goal 5 Safe Harbor/Significant Wetlands. The remaining 6.20-acres of significant wetlands on the site would continue to prohibit conflicting uses and be protected under Goal 5 Safe Harbor/Significant Wetlands.

**Sensitive Lands Review** approval is requested to allow modification to the 100-year floodplain of Ash Creek on the site to include reshaping the existing ground surface to decrease the areal extent of the floodplain on the site without modifying the flood storage capacity or floodwater transmission capacity of the floodplain on the site.

**Planned Development Concurrent Concept Plan and Detailed Development Plan** approval is requested for the plans for development of 215 multi-family residential dwelling units in four buildings on an 11.17-acre site on the south side of SW Oak Street within the Washington Square Regional Center Plan Area. The proposed planned development would preserve over 6-acres of the site as permanent open space including wetlands and riparian area adjacent to Ash Creek, and would include the provision of pedestrian trail easements to the City for development of future pedestrian trails in this area.

**LOCATION:** 8900, 8950, 8960, 8980, and 9000 SW Oak Street; south of SW Oak Street opposite SW 90<sup>th</sup>.

## **QUASI-JUDICIAL HEARING STATEMENTS**

President Rogers read the required statements and procedural items from the quasi-judicial hearing guide. There were no abstentions; there were no challenges of the commissioners for bias or conflict of interest. Ex-parte contacts: Commissioner Brian Feeney stated that he is working with a couple of the applicant's consultants. He said his company does work with Kittelson & Pacific Habitat Services and that he believes he can be completely unbiased. Site visitations: Commissioners Feeney, Muldoon, Goodhouse, Fitzgerald and Ouellette had visited the site.

No one wished to challenge the jurisdiction of the commission; no conflicts of interest.

## **STAFF REPORT**

Associate Planner Gary Pagenstecher introduced himself. He noted that additional testimony and comments had been forwarded to the commissioners and entered into the record – including the ESEE Analysis. Using boards, he explained to the commissioners the order of the separate recommendations that would be going to Council.

## **QUESTIONS**

**"Could you explain the floodplain issue a little more?"** The floodplain is identified as elevation 163. The retaining wall (southern boundary of the property) – 163 is out of it on the east side – it's lower than the wall – but on the west side of the development – they plan to fill in the relatively small area (.35 acres) that is in the wetland. 163 goes at a shallow angle from outside the retaining wall to inside the retaining wall. They need approval for filling in a wetland. They need to determine through their analysis that they are not going to increase the level of the flood by displacement in that regard. The conclusion of the study is no net rise in the floodplain as a result of this fill.

## **STAFF RECOMMENDATION**

Staff recommends that Planning Commission find that the proposed Comprehensive Plan Amendment, Sensitive Lands Review, and Planned Development Review will not adversely

affect the health, safety and welfare of the City and meets the Approval Standards as outlined in Section VI of this report. Therefore, Staff recommends that the Planning Commission recommend to City Council APPROVAL, subject to the recommended Conditions of Approval and any modifications that result from the Commission's deliberations.

## **APPLICANTS TESTIMONY**

**Jerry Offer, Senior Planner with OTAK Incorporated** said he would be acting as the team coordinator. He said Joe Tucker of Ankrom Moisen Architects would describe the architecture and basic site plan. John Van Stavern, a biologist for Pacific Habitat Services would deal with the ESEE Analysis and Comp Plan Amendment as well as the Sensitive Lands application for modification to the wetlands. Mike Peebles, of OTAK, would come up and discuss the floodplain modification. Mike, being the project engineer, would also be available for any questions regarding road improvements, utilities, etc. Mr. Offer said he, then, would talk about the requested parking exception and try to fill in for whatever is important and may have been missed; then Kelly Lawston, a traffic engineer with Kittelson and Associates, would summarize the traffic study.

Mr. Offer said they appreciate the staff recommendation for approval of all four of the applications. He said they accept the conditions of approval that are in the staff report and noted that they hope to be able to address a couple of them before the City Council hearing so they can make those conditions of approval disappear - because they will have addressed them in advance of that.

**Joe Tucker**, a senior associate of Ankrom Moisen Architects and the project manager for the architectural component of the project thanked the commission for their time. He went over a PowerPoint ([\*Exhibit B\*](#)) giving the elevations and describing the project. Among other things, he noted that the plan is to keep them at no more than four stories in height to keep it at a lesser impact and more relative to the neighborhood.

**John VanStavern** of Pacific Habitat – a biologist, talked about the wetland. He said the wetland had actually expanded in size due to stormwater coming from the adjacent development across the road. There was some lack of maintenance on the road causing the expansion. He said the expansion area was the largest area they're impacting with the significant wetland area. He noted that they've received approval from the National Marine Fisheries Service, making sure that their stormwater plan complies with the Endangered Species Act. They minimized the impact of wetland but because of the impact they have to mitigate for it. They looked at opportunities within the area to mitigate. With the 6.2 acres of remaining wetland they're planting 15,000 native plants within that area; 8,300 native trees and shrubs; and the rest sages and rushes. He said that's actually above and beyond what they need to do. Their proposal is to limit conflicting uses – what that means is that hopefully they will allow the .42 acres of impact; they would then enhance the remaining resources on site so they'll have better wildlife habitat, water quality, and flood control.

**Mike Peebles, Sr. Project Engineer of OTAK** talked about the floodplain modifications. He noted that the small encroachment area is on the west end in the MUE area – there are no encroachments in the MUR zone. He said there's a no rise change in the floodplain.

**Jerry Offer** talked about the density requirements. He spoke about the parking exception – pages 23 – 25 of staff report – called out the criteria. He said that if they don't have a

reduction in the parking standard or the modification of the wetland, they're going to be pushed upward with the buildings and they don't think that is the best thing to do with regard to being the first development in the door. He passed out a report to compare parking requirements that would be required for the same project in neighboring jurisdictions ([Exhibit C](#)); Tigard's onsite parking requirement would be 306 spaces for this mix of units, in Washington County with the same mix – they would require 242 spaces; in Tualatin, 266; Lake Oswego, 266; and Beaverton 215 spaces. He said he's pointing this out because he believes they're requiring a reasonable amount of parking for this sort of suburban project.

**Kelly Lawston, of Kittelson** addressed the scope of the traffic study. She noted that they developed the scope of the study in a collaborative process with Washington County, ODOT, and the City of Tigard. They added a couple of intersections based on some comments from ODOT and worked together with those jurisdictions to get a study scope they're comfortable with. The results show that all intersections operate acceptably today and continue to do so with the development in 2015 – the build-out year; no considerations or concerns arose from the traffic study.

**Jerry Offer** said he appreciates the recommended conditions of approval and that there are two that he wants to call out; conditions 7 & 8 on page 3 of the staff report. The recommendation is that they “provide a walkability and ridership audit that ensures the plan maximizes methods to promote walkability and transit ridership”... it refers to a letter from TriMet (TriMet had suggested that they work with the Lincoln Center to provide a transit shelter on Greenburg Road – an existing transit stop.) He said he's been in contact with the property managers at Lincoln Center and that they've not heard back from them yet – but that they hope to get that worked out before they get to the City Council meeting. He believes it would serve both their use, as well as ours, to have a transit shelter there. With regard to condition 8 - “The applicant shall submit a revised development plan to meet required participation in funding future transportation and public improvement projects such as the SW Lincoln Street extension, subject to rough proportionality.” We're willing to discuss that further in discussions with the Planning Commission.

## **QUESTIONS FROM THE COMMISSIONERS**

**“How affordable would these units be? Could someone working for Washington Square be able to afford living in this complex?”** I've not had any discussions with the developer about actual money for the units but I know that their target is looking at employees of Washington Square and Lincoln Center, primarily, and having a range of units but I think they wouldn't be characterized as being a high-end apartment project but a market rate mid-range apartment.

**Skip Grodahl, with DBG Properties,** (the developer) said that the rent would be in the \$900.00 range to \$2000.00/month. You'd need to be making about \$3000/mth to pay \$900.00. Our two bedrooms are like twin masters which allows affordability to come down further. To build this type of density is quite expensive so the kind of rents that you need tend to be higher.

**A question about the access now - are people using the property now for recreation? Trails?** I would say not much – it's very overgrown

**Why not stick with alternative A which was a higher density building to minimize impact on wetlands?** Our primary reason is that we knew we'd have difficulties with the neighborhood no matter what we did – whether it was a taller building or a four-story building like we're proposing. We think that the four-story buildings would be more compatible and acceptable to the neighborhood and to the City. As we looked at the wetlands – in the area we're proposing to do some modifications – they are in no way high-quality wetlands. They're choked with blackberries and other invasive species. We decided it makes more sense to develop a more regularly shaped site so that we could develop a more neighborhood compatible development. In addition, it's less expensive construction.

**Was there any thought on whether you could improve the quality of the remaining wetland?**

John VanStavern explained that they are proposing a significant on-site mitigation program. He said they are impacting only 6% and preserving 94% of the wetland. The agencies would actually allow them to go all to the mitigation bank and do nothing on site – but what the applicant/developer decided to do was say okay – well let's enhance the remaining area. So we are putting over 15,000 native plants in that area, 8,300 native trees and shrubs – and then the rest sages and rushes. We are keeping some areas unplanted – which is the request of the Department of Fish and Wildlife – so we've got a mosaic of habitats on the site. Ash Creek right now is not shaded at all and so with these trees now being planted within the riparian area and the wetland – that's going to shade the water – that's going to benefit the fish in the creek – and also downstream - keep water temperatures down.

#### **TESTIMONY IN FAVOR -**

**Ryan O'Brien**, Planning Consultant at Emerio Design at 8285 SW Nimbus Ave. Suite 180, Beaverton, OR 97008 – He represents Dr. Gene Davis, the owner of the developable property on the south and north side of Oak Street adjacent to the A+O Apartment property. He summarized his testimony and submitted it in writing ([Exhibit D](#)).

#### **TESTIMONY IN OPPOSITION**

**Tim Harless – 10435 SW 90<sup>th</sup>, Tigard** – he said he's disabled - and is very concerned about having to clean the leaves out of the storm-drain from the front of his house every time it floods down 90<sup>th</sup>. He said his property is getting flooded by 90<sup>th</sup> – which becomes a big river whenever it rains – which happens a lot. The topography of the area causes everything to go underneath the ground and out into the wetlands. Because he has a three-wheeled bicycle - and a pair of dogs that pull him because he can't peddle it – he uses a bike lane. Right across the street where there are new apartments – people are parking in the bike lane. He said, "I complained to the city and they haven't done anything about it. That's dangerous! If you do not do the proper parking for this project, people will be parking in the bike lane. If I get hit by a car, I'm going to sue the City too; seriously - because you're not taking care of the proper parking. It's got to be safe and you've got to consider the people who live here."

**Jill Warren – 9280 SW 80<sup>th</sup> Ave., Metzger area** – went over her written testimony ([Exhibit E](#)). She's concerned about flood insurance. Believes people would be in harm's way and, once flooded, would have no recourse.

**Steve Bintliff** – member of Tigard First – read his written testimony on behalf of that group ([Exhibit F](#)).

**Nancy Tracy** – 7310 SW Pine St, Portland, OR 97223 – distributed her testimony in writing ([Exhibit G](#)). She is concerned about water runoff.

**Jim Long** – 10730 SW 72<sup>nd</sup> Ave., Tigard 97223 submitted written testimony and read it on behalf of CPO-4M. ([Exhibit H](#))

**Noreen Gibbons 10730 SW 72<sup>nd</sup> Ave., Metzger area** – believes wetlands are not for people and is concerned about the wildlife. She's also concerned about the quality of life because of the traffic. She believes trying to get onto Greenburg Rd from Oak will be terrible with the traffic.

**Margaret Linn 10455 SW 87<sup>th</sup>, Tigard 97223**– submitted her written testimony ([Exhibit I](#)) and briefly went over it. She's concerned with the displacement of water and its impact on the wildlife.

**Trudy Knowles – 10430 SW 82<sup>nd</sup>, Tigard 97223** – showed a sign “Keep Metzger Livable” – a sign on the side of her house for two years.

**David Fallman 9055 SW Oak St., Tigard.** Lives across the street from the development. He's concerned about the traffic issues. He said there will be 400 or 500 more cars on the road. The parking issue should not be exempt.

**Steve Nyes 10250 SW 87<sup>th</sup>, Tigard, OR** opposes the application because of the parking requirements. He says it's not fair for the neighborhood to have to absorb this. There isn't public transit nearby. They should not be granted a parking exemption.

**Kristen Prince 10455 SW 90<sup>th</sup> Ave.,** – is concerned about the parking and the traffic. She's concerned about the schools being overcrowded and also about the floodplain.

## **REBUTTAL FOR APPLICANT**

**Mike Peebles from OTAK** came up to address some of the comments concerning floodplain and stormwater concerns. He put a slide up of the composite utility plan. He referred to their preliminary stormwater report that's in their narrative that addresses how they are meeting the City of Tigard, Clean Water Services stormwater requirements. As for the floodplain – the no rise analysis that they performed shows that they had minimal encroachment to the floodplain. The encroachment is on the perimeter on the fringe of the floodplain where it has very low velocity so the impacts are very minor as shown by the hydraulic analysis that shows there's no rise. As for flood insurance requirements – they will comply with those requirements.

**Jerry Offer** continued, “The City of Tigard's sensitive lands requirements for drainage ways and floodplains have gone through the State Post Acknowledgement Plan Amendment (PAPA) process. They have been reviewed and approved by the state floodplain office; that also goes through Federal review. It does provide an opportunity for modifications to floodplains within



commercial and industrially zoned areas – that’s the process we are using. The entire building will be outside of what will be the future 100 year floodplain when the modification is made. As for the storm drain on the western edge of the property that had been plugged – the wetlands on this property grew substantially because of a plugged storm sewer culvert. Our proposal is to pull that culvert and replace it with a storm sewer to get the water off of SW 90<sup>th</sup> and down into the drainage way. We’re also proposing to do street improvements to provide storm sewers along the street.

Mr. Harliss talked about blocked bike lanes – the City of Tigard has modified their standards and have requested they, instead of providing an on-street bike-lane – like we had proposed – they asked us to instead increase the width of the sidewalk along Oak Street from the typical 8 feet to 12 feet to make a better multi-modal ped/bike way that doesn’t get blocked.

There were some comments about the Washington Square Regional Center plan and returning the zoning... that’s not before the commission now. It’s something that’s been adopted by the Council some time ago. We’re bound by the standards that are in effect at the time we made our application and that is the current MUE1 and MUR1 zones. So that’s what you have to review it upon. There’s not a zone change to the land use designations in front of you.

Jim Long requested the applications be considered separately by the neighbors. Again, you have to review the application as we have submitted it. I don’t think you would have the opportunity to cause them to be separated – in fact, state law provides for them to be able to be combined. We believe it makes sense to address them together.

We are requesting approval of a plan that involves a substantial amount of on-site mitigation to the wetlands that *isn’t required*. What is required is the off-site mitigation at the wetland bank in the Bethany area of Washington County. We don’t think that’s enough. We think that we can greatly improve the wetlands on this site despite the proposal to fill a small portion of the wetlands. We’re going to have approximately 95% of the wetlands left – they are going to be enhanced in exchange for the 5% that we’re looking to modify.”

**Mike Peebles from ODOT** came back up and noted that the 278 on-site parking numbers does not include the 16 on-street parking spaces that will be provided along the Oak Street frontage.

**Kelly Lawston of Kittelson** briefly addressed the traffic issue comments; regarding operations along 90<sup>th</sup> and SW Oak Street with this development. She said “This is a 250 unit development and whenever we are doing our study we use the conservative rates in the ITE that assume all vehicle trips so even though we’re in an area that is shown in the Washington Square studies, we were conservative in our assessment and assumed all vehicle trips; when we were looking at the AM/PM Peak Hour - that amounts to about 110 or 135 trips. There was some concern that we’d actually have 4 times the number of trips so I wanted to be sure to hearken back to those numbers.

**Jerry Offer** added with regard to parking – some people said they were asking for a variance to the parking standard – we are not. We are asking for an exception. The code provides for an exception of up to 10% from what the typical parking standard is. We are requesting a 9.1% reduction of on-site parking. Again, we’re providing some on-street parking as well and we

believe that we have adequately addressed the criteria that are already set out in the code that the commission and the council need to consider for approval of an exception. We think we meet the standard.

Lastly, regarding Ryan O'Brien's request that the commission consider requiring right-of-way for SW Lincoln St. to be dedicated even possibly be required to improve it – but then he went on to say that he doesn't know that the City can require it. We don't think it meets the Nexus requirement of the impacts of this development are such that an off-site improvement like that would be required based upon the anticipated traffic impacts. Nevertheless, we're willing to consider some off-site improvements, as I mentioned earlier. We're talking to the management of the Lincoln Center if we can do some transit improvements. We're willing to look at what can be done with regard to SW 90<sup>th</sup>. In his letter he said that the Orland Company was not interested in giving up SW Lincoln because they're trying to block development and that's not the case. They're looking to share responsibilities for Lincoln and we have talked to Dr. Davis in the past about selling that property or somehow partnering with him for the improvement of SW Lincoln Street but, no, we don't think the City can require improvement of SW Lincoln Street as it relates to this project because we meet the acceptable traffic standards.

## **PUBLIC HEARING – CLOSED**

### **DELIBERATION**

Commissioner Muldoon noted that there appears to be two main issues – the wetlands and quality of life or parking.

**Commissioner Doherty** asked whether the police could ticket people on 90<sup>th</sup> – whether that's part of Tigard. "Yes, it's Tigard's jurisdiction."

"So my suggestion would be to inform the Tigard PD to maybe do a little extra. If people are parked illegally - to go out and ticket those people who are parked in the bike lane or in front of mailboxes."

"My second comment is more of an observation as opposed to a question.... This area is *going* to be developed – there's no doubt about it; eventually; by somebody. My concern is if another developer comes in down the road – are they going to do improvements to the wetlands that are there now? This developer has gone through and said 'we're going to plant 8,000 trees and shrubs.' The next developer may do nothing. So, there will be something there – and will it be something that will have no improvements whatsoever. It seems like now it's not something that's real accessible to the neighborhood – possibly it looks like this IS going to be accessible for the neighbors to be able to look on. The next developer may just come along and say 'heck – let's just leave it as blackberries.'"

**Commissioner Feeney** agreed with Commissioner Doherty and said they definitely are going above and beyond what they are required to do. He spoke about the fact that there are codes that everyone has to follow. He said, "we commissioners are here to follow the code in front of us. I understand the concerns of the neighbors – traffic's an issue but that is more of a higher city code concern. We have to address what's in front of us - and what's in front of us is permitted under those certain things.

**Commissioner Fitzgerald** thanked everyone for coming in and complimented the very thorough amount of work the project team put together. She complimented Mr. Tucker on the



design of the floor plans. She said it wasn't anything they'd talked about but she noted that there are many nice amenities in the project, including the community gardens and pool.

Her main concerns about the project are:

- As this is the first major project in Washington Square I do not want to set precedent with this project.
- This planned development should have come in separate from the detailed plan.
- The project could have been laid out minimizing building footprints and going vertical. This would have reflected the zonings intent for high density and respected the wetlands.
- She has concerns about the impact to the wetlands and doesn't want to set precedence by changing Goal 5 for this.
- Parking: concerns about parking reduction. She believes it's important to have the parking counts met.
  - Families in the area have 5-6 people in a one bedroom. 2 driving adults and a driving teen.

She asked for some clarification from staff on Lincoln Street – her concern is about the improvements of the traffic patterns in this area. She wondered if staff could share any information about city plans for that so the commission is aware. Not just Lincoln Street but the other streets in that area.

Gary Pagenstecher said as far as he knows the TSP expects to develop that area. The city isn't planning on having a Capital Improvement Project in that area – all on its own. It's expecting development will pay the way. Commissioner Fitzgerald asked what the trigger was for that. Gary said it's not warranted at this time. We wouldn't be able to require it so we haven't alluded to that in the staff report.

In reference to TriMet or bus routing – or mass transit - Commissioner Ouellette is hesitant because right now there are service routes but later TriMet could adjust those. How can we use that as a factor in our decision making process This bus stop is just over a quarter mile away but it may not exist due to budgetary cuts. President Rogers said he believes that we have to work with the current conditions. Anything could happen down the road that would change things; however, we work in the “now” and I think that's what they've done.

**Commissioner Muldoon** had two questions that he wanted to ask staff and wanted the public hearing to be reopened. Commissioner Feeney offered to help answer the questions regarding stormwater; however, Commissioner Muldoon still wanted to hear from staff.

## **PUBLIC HEARING REOPENED FOR FOLLOWING QUESTIONS**

1. Do you feel that there's a substantial improvement with the storm sewer drain idea as opposed to where the water's at right now with an ineffective ditch that can get clogged with leaves and such;
2. The second question is whether you feel the proposed canopy or shading was going to achieve some substantial improvement for the wetlands for water temperature.

**Gary Pagenstecher** addressed the second question. “That’s why we require canopy coverage – which we would in this case for both the parking lot and the overall site according to the new tree code. The planting adjacent to Ash Creek would directly shade the creek and lower the temperature there so, in both cases, it’s beneficial to the temperature.

**Development Engineer Greg Berry** answered the first question. “As Mr. Peebles described, the proposed storm drainage improvement should result in improved drainage out there. Right now there’s just ditches and an ineffective culvert – so at least on the south side they’ll be putting in curbs and full drainage and they’ll have an effective drain to collect it and dispose of it. The north side of the street will remain unimproved and you could still have problems with debris collection on the north side but overall it would be expected to be a much better system.”

## **PUBLIC HEARING RECLOSED**

### **DELIBERATION**

Commissioner Schmidt said he agrees with Commissioner Fitzgerald and her comments about parking and the flood zone impediments. He doesn’t think this project warrants those kinds of exceptions – there’s plenty of variety of ways to improve the capacity of the site and not impact those areas.

President Rogers said he understands that sooner or later something will be built there. The question in his mind is striking a balance. Has enough been done to maintain balance within the neighborhood to preserve the eco-system, to deal with the flood issues, to deal with parking – and he thinks yes.

Commissioner Doherty said it looks to her that when you’re talking about balance... you’ve got 6 acres of wetlands versus .42 acres that they would take from the Goal 5 change. Again, I’m going to reiterate – that area IS going to be built up – it’s Washington Square area – there’s a density issue – the direction from Metro – there will be density in all the Portland Metro area in the next 25 years. I’m just thinking – do we want to keep those wetlands as they are or have another developer come in that’s going to ignore them? That’s the dilemma I’m in. The ESEE Analysis follows standards – and that’s what we have to follow. Sometimes the Planning Commission doesn’t do things that we necessarily agree with but it follows what has been brought and put in front of us and what we have to deal with when it comes to the legal aspect.

### **MOTIONS**

Commissioner Muldoon made the following motion: **“I move the Planning Commission forward a recommendation of approval to City Council of (CPA)2014-00002 and adoption of the finding and conditions of approval without change contained in the staff report and based on the testimony tonight.”** Commissioner Feeney seconded the motion.

**A verbal vote was taken:**

**Those in favor – Commissioners Feeney, Muldoon, Rogers, and Doherty**

**Those opposed – Commissioners Schmidt, Ouellette, and Fitzgerald**

**Abstentions – none**

**Motion passes with a count of 4 to 3.**

Commissioner Muldoon again moved: **“I move the Planning Commission forward a recommendation of approval to City Council of (PDR)2014-00003 and adoption of the finding and conditions of approval contained in the staff report and based on the hearing tonight.”**

**A verbal vote was taken:**

**Those in favor – Commissioners Feeney, Muldoon, Rogers, and Doherty**

**Those opposed – Commissioners Schmidt, Ouellette, and Fitzgerald**

**Abstentions – none**

**Motion passes with a count of 4 to 3.**

Commissioner Muldoon again moved: **“I move the Planning Commission forward a recommendation of approval to City Council of (SDR)2014-00004 and adoption of the findings and conditions of approval contained in the staff report and based on the hearing tonight.”** Commissioner Feeney seconded the motion.

**A verbal vote was taken:**

**Those in favor – Commissioners Feeney, Muldoon, Rogers, and Doherty**

**Those opposed – Commissioners Schmidt, Ouellette, and Fitzgerald**

**Abstentions – none**

**Motion passes with a count of 4 to 3.**

Commissioner Muldoon again moved: **“I move the Planning Commission forward a recommendation of approval to City Council of (SLR)2014-00002 and adoption of the findings and conditions of approval contained in the staff report and based on the testimony heard tonight.”** Commissioner Feeney seconded the motion.

**A verbal vote was taken:**

**Those in favor – Commissioners Feeney, Muldoon, Rogers, and Doherty**

**Those opposed – Commissioners Schmidt, Ouellette, and Fitzgerald**

**Abstentions – none**

**Motion passes with a count of 4 to 3.**

President Rogers declared that all motions had passed and stated that the next step in the process is the A+O Apartment Complex hearing at the City Council that will occur on January 13, 2015. He encouraged those who testified to attend that meeting and to please bring their passionate public input. He thanked everyone who had come.

## **WORKSHOP – Medical Marijuana**

Associate Planner John Floyd came up and said due to the lateness of the hour that he would try to be brief and high level. He reminded the commission that Measure 91 and the legalization of recreational marijuana had passed in November. He noted that Tigard generally

voted with the rest of the state in terms of percentages. Tigard was 56% Yes / 44% No – which is within ½ a percentage point of the rest of the state.

- Strongest support in northern & eastern precincts
- Weakest support came from the south near the high school and around the Bull Mountain area.
- Our regulatory ability is relatively unchanged
  - The measure authorizes local governments to adopt time/place/manner restrictions
  - Any restriction; however, must be tied to a very specific community impact
- There's a Two-Track Regulatory System
  - Doesn't affect how the state regulates Medical Marijuana – so Medical Marijuana rules remain unchanged.
  - Recreational marijuana has different rules/timelines
  - Council direction to staff was for a single, adaptable set of rules that addresses the full spectrum of activity.

The results of public outreach efforts regarding the development and adoption of marijuana facility regulations:

- Summarized in Packet
- Some feedback was given, but not at levels desired
- The City tried a variety of outreach methods
  - Cityscape
  - Website
  - Online Forum – this wasn't used much because some people felt intimidated by those who were pro. Most people were civil but some people were rather concerned about that and didn't participate because of that.
  - Targeted Survey to 225 Business owners / executives
  - Informal Conversations
- “Wait and See” approach seemed to be common / Show them the proposal
- LOTS of interest based on conversation with realtors / property owners / operators
  - Portland Market getting saturated
  - Pacific Highway is seen as the most desirable location
  - People have said they are signing leases – even when warned that they are advised not to do so until we actually have regulations. Presently the City cannot issue any authorization whatsoever but people want to position themselves to be ready to go.
  - Not just locals – Bend, Ashland, Eugene, and California investors are interested
- Thirty five business owners and leaders did respond after Measure 91 passed did respond
  - 65% did not see an impact to their businesses
  - Only 13% expected to participate directly or indirectly
  - That said – about 60% of respondents supported some form of local regulation / 25% were against local regulations – the rest were unsure
  - When asked about specific types of regulations
    - 63% supported odor controls and limits on hours of operation
    - 71% supported minimum distance buffers

On August 4, 2014 the commissioners had asked for some hard data on this topic.

- Unfortunately hard local data simply does not yet exist – it's too soon
  - Spoke to staff at the City of Portland and they promised to pull something together and for whatever reason – it just wasn't delivered. They may not have it.
  - Spoke to Tigard PD and they don't code data in easily searchable form for marijuana
    - PD did say that the current local medical co-ops have had some property crime associated with them

- PD believes there's lots of under-reporting
- Only two peer reviewed studies of impacts of dispensaries on local communities
  - Rand Corporation supported a study in LA, then rescinded the study after the data proved to be flawed
  - A Sacramento Study found no correlation between a dispensary and local crime rates, but authors conceded other factors may be at play
- Washington County and Beaverton

### **Overview of draft regulations to be proposed by staff on January 12, 2015:**

- January 15 – First Hearing
- Time/Place/Manner Restrictions
- Seed to Sale
- Based on Tigard adult entertainment regulations / Similar ordinances
- Impacts to be avoided / mitigated
  - Diversion of Marijuana to Minors
  - Unpleasant odors from growing / processing / consumption
  - Noise
  - Crime related to cash / saleable product
  - Threats to health, life, and property
- Basic Structure
  - New chapter to generally regulate “marijuana facilities”
  - Intended to be flexible
    - Adapt to new state regs
    - Dual Track
  - Limited hours of operation – based on average liquor store hours as a reasonable basis
  - 500’ Distance buffers from residences / schools
  - No detectable marijuana odor at property line
  - Security standards
    - Orientation of primary entry
    - Exterior Lighting

**OTHER BUSINESS** – The incoming commissioners were present (in the audience) so President Rogers asked each of them to come up and introduce themselves and tell a little about themselves – which they did. The other commissioners introduced themselves as well – and welcomed the incoming commissioners.

### **ADJOURNMENT**

President Rogers adjourned the meeting at 10:12 p.m.

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Doreen Laughlin, Planning Commission Secretary

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ATTEST: President Jason Rogers